

EXHIBIT 11

N582CAR1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 E. JEAN CARROLL,

4 Plaintiff,

New York, N.Y.

5 v.

22 Civ.10016 (LAK)

6 DONALD J. TRUMP,

7 Defendant.
-----x

Jury Trial

8 May 8, 2023
9 9:10 a.m.

10 Before:

11 HON. LEWIS A. KAPLAN,

12 District Judge
and a Jury

13 APPEARANCES

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Attorney for Defendant

N582Car1

Summation - Ms. Kaplan

1 referring, of course, to his second wife, Marla Maples.

2 Just to be clear—I think we all know this—this is
3 not a photograph of Marla Maples. This is a photograph of
4 E. Jean Carroll, her then husband John Johnson, Donald Trump,
5 and Mr. Trump's first wife, Ivana Trump.

6 But Mr. Trump pointed to Ms. Carroll, the woman he
7 supposedly said was not his type, and mistook her for Marla
8 Maples. Ms. Carroll's hair-do at the type was similar in both
9 cut and color to Ms. Maples. She was exactly his type.

10 And believe it or not, he repeated it twice. He only
11 corrected himself when his own lawyer, realizing the problem it
12 created for him in this case, jumped in to tell him that he had
13 gotten it wrong. Realizing what he had done, Donald Trump then
14 did what he always does. He made up an excuse for why he made
15 the mistake. He said that the photograph was blurry. But
16 that's the photograph, ladies and gentlemen. It's the same
17 photograph I showed him in that room at Mar-a-Lago, and you
18 know for yourselves that it is not at all blurry.

19 The truth is that E. Jean Carroll, a former
20 cheerleader and Miss Indiana, was exactly Donald Trump's type.

21 What else did you hear from Donald Trump? You also
22 heard that he did almost the exact same thing he did to
23 Ms. Carroll to other women. You heard him say it in his own
24 words.

25 (Video played)

N582Car1

Summation - Ms. Kaplan

1 MS. KAPLAN: Here is what he said: "You know, I'm
2 automatically attracted to beautiful women. I just start
3 kissing them. It's like a magnet. Just kiss. I don't even
4 wait. And when you're a star, they let you do it. You can do
5 anything. Grab them by the pussy. You can do anything. Just
6 start kissing them. Don't even wait. You can do anything.
7 Grab them by the pussy."

8 What is Donald Trump doing here? Telling you in his
9 very own words how he treats women. It's his *modus operandi*,
10 or MO.

11 You heard Jessica Leeds and you heard Natasha Stoynoff
12 tell you how he used this exact same MO or playbook with them.
13 He kissed them without their consent. He grabbed them. He
14 didn't wait.

15 Now let's put these two things together. First we are
16 looking at the photograph -- the photograph that I showed you
17 earlier, Donald Trump confirmed that E. Jean Carroll, who was
18 then in her late forties or early fifties, was exactly his
19 type, the sort of woman he found attractive.

20 Second, on the *Access Hollywood* tape, he told you what
21 he automatically does when he sees women he finds attractive.

22 The evidence in this case establishes overwhelmingly
23 that Trump followed this same playbook when he attacked
24 Ms. Carroll at Bergdorf Goodman. He pushed her up against the
25 wall and he started kissing her. He didn't wait. He grabbed

N582Car1

Summation - Ms. Kaplan

1 her, using his words, "by the pussy."

2 But Donald Trump went even further than that.

3 Remember how on the *Access Hollywood* tape he said that if
4 you're a star they let you do it, you can do anything? You
5 just saw that. What did Donald Trump say about that when I
6 asked him about it at his deposition? He said that for
7 millions of years unfortunately or fortunately—those are his
8 words—stars like him could get away with sexually assaulting
9 women.

10 Let's listen.

11 (Video played)

12 MS. KAPLAN: Unfortunately or fortunately? He
13 actually used the word "fortunately" to describe stars grabbing
14 women? Let that sink in for a moment. Who would say
15 "fortunately" to describe the acts of sexual assault? I know
16 who. Someone who thinks of themselves as a star, someone who
17 thinks it's a good thing that stars can grab women by the
18 pussy. That's who Donald Trump is. That is how he thinks, and
19 that is what he does. He thinks stars like him can get away
20 with it. He thinks he can get away with it here.

21 Before I get to the rest of the case, let me say one
22 more thing. You have heard from many witnesses during this
23 trial. You have heard from E. Jean Carroll herself; from
24 Ms. Carroll's two friends, Lisa Birnbach and Carol Martin; from
25 two Bergdorf Goodman employees, Cheryl Beall and Bob Salerno;

N582Car1

Summation - Ms. Kaplan

from two other women sexually assaulted by Donald Trump, Natasha Stoynoff and Jessica Leeds; and from Ms. Carroll's former editor and sister. Each of these nine witnesses presented factual evidence that supports E. Jean Carroll. You also heard from two experts—Dr. Leslie Lebowitz, who testified about what happens to someone when they experience trauma; and Professor Ashlee Humphreys, who testified about the damage to Ms. Carroll's reputation. Even I can do this math. That adds up to 11 witnesses who testified under oath in this courtroom.

What do they have on the other side? Donald Trump and only Donald Trump. He had no fact witnesses to support any part of his story, no one to back up a single thing he said. And you only saw him on video. He didn't even bother to show up here in person.

In other words, as my partner Shawn Crowley said in her opening argument a couple of weeks ago, this is not a "he said/she said" case. It's not what Donald Trump says versus only what E. Jean Carroll says. Instead, it's what Trump says versus what every single one of those 11 witnesses said when they testified in that chair over there.

And on top of that, as I just explained, much of what Donald Trump says actually supports our side of the case. In a very real sense, Donald Trump here is a witness against himself. And there is a very good reason for that. Donald Trump knows what he did. He knows that he sexually assaulted

N582Car1

Summation - Ms. Kaplan

1 E. Jean Carroll.

2 Now, as you know, Mr. Trump's lawyer made a promise to
3 you during his opening statement that he would prove that each
4 and every step in Ms. Carroll's account was totally
5 unbelievable. Turns out he wasn't able to keep that promise.

6 Let me just begin by giving you one obvious example of
7 that kind of a broken promise. I thought I would use something
8 simple like the Bergdorf Goodman dressing room doors.

9 Mr. Tacopina told you during his opening that
10 Ms. Carroll's account of the sexual assault by Donald Trump is
11 not believable because the dressing room doors at Bergdorf
12 Goodman were always closed. But you now know that that simply
13 isn't true. Both Cheryl Beall and Bob Salerno told you that it
14 was common for dressing room doors at Bergdorf Goodman to be
15 left open. You can see for yourselves on the screen what they
16 said.

17 Let's now turn to Ms. Carroll's account of what
18 happened that day in the spring of 1996, when things turned
19 from funny to tragic, as she described it. You will hear that
20 every single aspect of what she has said is backed up or
21 corroborated by other evidence.

22 Let me start with the date. There has been a lot of
23 talk in this case about the date. We can now be pretty sure
24 that the attack happened on a Thursday evening in the early
25 spring of 1996. Let me pause here for a minute. I will

N582Car1

Summation - Ms. Kaplan

1 explain this more later, but the word "probably" is very
2 important here because it is consistent with our burden of
3 proof. All you need to find is that it is more probable than
4 not that Mr. Trump did what E. Jean said he did.

5 So how do we know it was spring of 1996? Well, first
6 of all, E. Jean Carroll knows that the assault happened on a
7 day that she was filming her E. Jean television show at the
8 America's Talking network. That network, as you heard, only
9 existed from July 1994 to July 1996. So we know for sure that
10 it has to be within those two years.

11 Next, Ms. Carroll told you that she was wearing a wool
12 dress with tights that day, but no coat. That means the
13 weather was cool enough for her to wear a warm dress, but not
14 cold enough for her to need a coat.

15 We also know that her friend Lisa Birnbach published a
16 magazine article about Donald Trump in February 1996. You see
17 it there on the right side of your screen. And we also know
18 that Ms. Birnbach never would have agreed to go down to
19 Mar-a-Lago to interview Donald Trump if Ms. Carroll had already
20 told her about the sexual assault. So that means the attack
21 must have happened after this article was published on February
22 12, 1996.

23 There is more. Lisa Birnbach also explains that when
24 E. Jean Carroll called her immediately after the attack, she
25 was giving her two young kids dinner, so it must have been

N582Car1

Summation - Ms. Kaplan

1 between 6 and 7 p.m. And here's what's crucial. Ms. Carroll,
2 in turn, said that it was already pretty dark outside when she
3 was on Fifth Avenue calling Ms. Birnbach. It is now early May.
4 Think about when the sun set last night, think about when it
5 set a month ago, and think about when the sunset a month before
6 that. It had to have been early spring.

7 Ms. Carroll also told you that she has long suspected
8 the attack happened on a Thursday. Why Thursday? As you heard
9 from the Bergdorf Goodman witnesses, Thursday was the only day
10 when the store was open after 6 p.m. It makes sense that the
11 attack would have happened on a Thursday since, as Ms. Carroll
12 testified, she drove to the store after she finished filming
13 her TV show in Fort Lee around 5 p.m. If the store had closed
14 at its regular time the other days of 6 p.m., she wouldn't have
15 had enough time to drive to New York City, go into the store,
16 shop, come back out, meet Mr. Trump, etc.

17 Now it is true that Ms. Carroll cannot recall the
18 precise date of the attack. If it was a Thursday in the early
19 spring of 1996, there are about a handful of days that it could
20 have happened. Donald Trump wants you to think that this is a
21 huge weakness in Ms. Carroll's case, but it's not. That's
22 because when Donald Trump assaulted Ms. Carroll, she wasn't
23 thinking about the date. She was trying to come to grips with
24 the fact that she was being attacked, and she was desperately
25 trying to fight him and get away. The details of the attack

N582Car1

Summation - Ms. Kaplan

1 itself—where it happened, how it felt—she remembers all that
2 with great detail, but she can't specify the date. You heard
3 Dr. Lebowitz talk about this during her testimony, and I'm
4 going to come back to that later.

5 Going back to her narrative, as Ms. Carroll testified,
6 after leaving work in New Jersey, she drove across the
7 GW Bridge and down to Bergdorf Goodman on 58th Street and
8 Fifth Avenue. She parked her car on 58th Street in the garage
9 and entered the store at the 58th Street entrance across the
10 park, really, from the Plaza Hotel.

11 She spent some time looking for whatever it was that
12 she had wanted to buy. She doesn't remember what it was. She
13 didn't find it, and was about the leave the store through the
14 58th Street entrance.

15 Ms. Carroll told you that just as she was leaving the
16 store, she noticed Donald Trump coming in the other way through
17 the glass doors. Trump held up his hand like this to stop her
18 and said, Hey, you're that advice lady. Ms. Carroll, E. Jean
19 Carroll, in kind, responded, Hey, you're that real estate
20 tycoon. In other words, they recognized each other.

21 Let me now talk about that.

22 Donald Trump was a familiar person in New York City at
23 this time, definitely not as famous as he is today, but he was
24 fairly well known. He was known for his real estate projects,
25 like Trump Tower, and his love life was routinely featured on

N582Car1

Summation - Ms. Kaplan

1 the pages of New York City tabloids, so it was no surprise that
2 Ms. Carroll recognized Donald Trump. But it's also no surprise
3 that Trump recognized Ms. Carroll.

4 Bear with me. I'm going to take you through this step
5 by step.

6 First of all, you already know that Trump and Carroll
7 had met each other at least once before. You saw this
8 photograph of them and their spouses talking at a party and
9 laughing at a party in the late '80s.

10 But more importantly, remember what Donald Trump
11 called E. Jean Carroll when he ran into her? He called her
12 "that advice lady." Why would he say that? Well, Donald Trump
13 loves to watch TV. He admitted during his deposition that he
14 watched *Good Morning America* and *The Today Show*, two shows that
15 E. Jean Carroll regularly appeared on at that time. We also
16 know that Donald Trump was friends with Roger Ailes,
17 Ms. Carroll's boss at the America's Talking network.

18 During Ms. Carroll's testimony, you saw a video of
19 Roger Ailes and Donald Trump on Roger Ailes' talk show, which
20 was called *Straightforward* in November 1995. Remember that?

21 (Video played)

22 MS. KAPLAN: Okay. So how do we know this was
23 November 1995? Because in the video, Donald Trump talks about
24 being the grand marshal of a parade that took place on November
25 10, 1995, the Veterans Day parade which he admitted during his

N582Car1

Summation - Ms. Kaplan

1 deposition. You heard that on his deposition video. And I bet
2 you were wondering when we showed you this video why in the
3 world we were showing it to you. The reason is because the
4 Ailes talk show was filmed at the very same New Jersey studio
5 where E. Jean's advice show was also filmed, and it was filmed,
6 we now know, only a few months prior to the day that Mr. Trump
7 and Ms. Carroll ran into each other at Bergdorf
8 Goodman—November, early spring. Trump may well have seen
9 E. Jean somewhere at the studio when he taped that show.

10 But that's not all. As Ms. Carroll told you, the
11 Roger Ailes show reran on TV every weeknight at midnight
12 immediately following the rerun of her show, which started at
13 11 p.m.

14 Now I'm going to have to take people back in time a
15 bit.

16 (Continued on next page)

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N585car2

Summation - Ms. Kaplan

1 MS. KAPLAN: Remember -- and I apologize for the
2 younger members of the jury life -- remember, this was the
3 mid-1990s, way before today's world of streaming, of YouTube,
4 of all that stuff. Back then, in the old days, if you wanted
5 to watch a TV show you figured out what time it ran, you put
6 the channel on to the right channel, and you waited for it to
7 start. Sometimes you might catch the last few minutes of the
8 previous show. As a result, if Donald Trump wanted to watch
9 his friend Roger Ailes' show, including the episode that he was
10 featured on, that's what he would have to do. He would have to
11 turn his TV to the America's Talking channel, wait for Roger
12 Ailes' show to start, and unless he did that at the exact right
13 moment, he would have seen the end of E. Jean's show.

14 Going back to the timeline -- that's why we know that
15 Donald J. Trump knew who E. Jean Carroll was that day. Let me
16 go back to the timeline.

17 As E. Jean Carroll explained, she and Donald Trump
18 stopped to chat just inside the 58th Street doorway of the
19 store. Mr. Trump told Ms. Carroll that he was shopping for a
20 present for a woman and he asked her as the advice columnist to
21 help him pick something out. Let's pause again to show how and
22 why the evidence confirms this.

23 As you recall, Donald Trump claimed during his
24 deposition that he almost never went to Bergdorf Goodman. This
25 is classic Donald Trump, his testimony gets stronger and

N585car2

Summation - Ms. Kaplan

1 stronger, his denials get stronger and stronger as testimony
2 goes on.

3 Let's watch.

4 (video played)

5 MS. KAPLAN: But we now know that that is not true.
6 Robert Salerno, the former Bergdorf Goodman employee testified
7 here, under oath, that he, himself, actually saw Donald Trump
8 at Bergdorf Goodman in the mid-1990s. Ms. Beall testified that
9 she once saw him right outside the store on the corner. And
10 that's not at all surprising. Remember, Bergdorf Goodman was a
11 block away from Trump Tower and only diagonally across the
12 street from the Plaza Hotel, which Donald Trump used to own.
13 It obviously makes sense that he would shop there from time to
14 time.

15 Going back to Ms. Carroll's account. E. Jean at first
16 suggested that he buy the woman a handbag, then a hat. Those
17 departments were both on the ground floor where there were only
18 a few other people, as would be typical on a Thursday after
19 6:00. You heard both Ms. Beall and Mr. Salerno testify that
20 Thursdays weren't busy and there were far fewer sales than at
21 peak times.

22 Ms. Carroll explained when she testified that a couple
23 people in the store did in fact recognize Donald Trump, one of
24 them was a sales attendant who smiled but didn't say anything
25 to them. This, too, is supported by the evidence. As

N585car2

Summation - Ms. Kaplan

1 Ms. Beall told you, sales attendants were trained not to say
2 anything when famous people came into the store, especially
3 when a famous man was in with a woman who was not his wife.

4 Mr. Salerno told you the staff were trained to basically ignore
5 and not pay attention to celebrities.

6 Going back to the narrative. Trump eventually said
7 that he wanted to go look at lingerie. They took the escalator
8 up to the sixth floor, Ms. Carroll testified that she didn't
9 notice anyone else as they rode up. Mr. Trump's lawyers seemed
10 fixated on this point when they questioned E. Jean Carroll.
11 They tried to make it seem like she was saying that there was
12 no one else in the whole entire store but that's not what she
13 said. She said that she and Donald Trump were so engaged in a
14 playful, funny, back and forth, that she didn't notice anyone
15 else. Maybe there were people on the other floors, maybe there
16 were people on the escalators going down, but Ms. Carroll
17 didn't notice them and that makes sense.

18 Also, as Mr. Salerno told you, there were walls around
19 the escalators at Bergdorf Goodman, meaning that you couldn't
20 see sideways out from the elevator as you went up. This
21 further explains why Ms. Carroll would not have noticed anyone
22 else as they traveled up to the sixth floor or even as she went
23 back down after the attack.

24 OK. Back to what happened. As Ms. Carroll told you,
25 she and Donald Trump rode the escalator up to the lingerie

N585car2

Summation - Ms. Kaplan

1 department on the sixth floor, turned left, and walked through
2 a few other sections before arriving at lingerie.

3 Ms. Carroll's description of the layout of the sixth floor is
4 completely consistent both with the architectural drawings you
5 saw -- and you have one in front of you, PX- 24 -- and with the
6 testimony of the Bergdorf witnesses. In particular -- am I
7 going to be able to trace on this, Mr. Craig or Mr. Lam?

8 In particular, Ms. Beall, whose office was on the same
9 floor over here, told you that if you were coming up the
10 elevator on the sixth floor, this is what you would have to do.
11 You would come up here, you would go around, around here, and
12 you would go in here and the lingerie department was right
13 there. That fits with Ms. Carroll's description; a left off
14 the escalator, then continue on, bearing right, until you
15 arrive at lingerie.

16 Ms. Carroll told you that she didn't see anyone on the
17 sixth floor and that the lingerie department was basically
18 empty when they got there; no customers, no sales attendants.
19 Another issue that Mr. Trump's team made a big deal out of in
20 both his opening statement and during his cross-examination of
21 Ms. Carroll, Mr. Tacopina tried to use Ms. Carroll's own words
22 to challenge the idea that the lingerie department could
23 possibly have been empty. But you and yourselves have actually
24 heard from the people who would know -- Ms. Beall and
25 Mr. Salerno. What did they say? Ms. Beall told you that on

N585car2

Summation - Ms. Kaplan

1 Thursday evenings, traffic in the lingerie department was very,
2 very low. Mr. Salerno told you that sales in the lingerie
3 department were less than 1 percent of Bergdorf Goodman's total
4 revenue. He added that Thursday evenings in the spring would
5 be especially slow since spring, unlike the time before
6 Christmas, was not a busy season for the store. And they both
7 explained that because there were so few shoppers on Thursdays,
8 there were also very few sales attendants. And the few sales
9 attendants who were there were not, as Trump's team seems to
10 suggest, glued to a particular place or department. They were
11 encouraged to wander around the floor to help customers, to
12 help restock, and they, of course, were allowed to take breaks.

13 Both Mr. Salerno and Ms. Beall testified that it would
14 not have been unusual for the lingerie department to have been
15 left completely unattended on a Thursday evening. Ms. Carroll
16 told you that once they got to the lingerie department,
17 Mr. Trump made his way over to the display counter and picked
18 up a see through lilac-grey bodysuit and he tossed it at
19 Ms. Carroll and told her to try it on. The fact that the body
20 suit was sitting on the counter is supported by Ms. Beall who
21 told you that items would often be displayed on tables or on
22 the top of cabinets and that there was a cabinet -- let me make
23 sure I get this right -- a cabinet or a vitrine, as she called
24 it, right there in the middle of the lingerie department as you
25 walked in. Ms. Carroll testified that after Trump tossed her

N585car2

Summation - Ms. Kaplan

1 the body suit, she tossed it back to him saying to him, *You try*
2 *it on, it's your color*, joking that it matched his eyes.

3 Mr. Trump's lawyers seem to have a very hard time
4 understanding what is going on here. Mr. Trump, of course, was
5 a very large man wearing a business suit. Did Ms. Carroll
6 really expect him to try on a piece of women's lingerie over
7 his suit? But I think we understand what was happening. This
8 was a combination of humor and flirting. As Ms. Carroll
9 explained, you take two opposite things, Donald Trump and a
10 piece of women's lingerie, you put them together and you get
11 comedy. It was a joke. Ms. Carroll could see the joke in her
12 mind's eye as she did what she used to be a writer at Saturday
13 Night Live. Had she worked out the technicalities of how
14 Mr. Trump was going to pull the bodysuit over his pants? Of
15 course not. That wasn't the point. The point was that it was
16 funny.

17 Tragically, ladies and gentlemen, that's when things
18 suddenly took a very, very dark turn. Mr. Trump guided
19 Ms. Carroll by her arm in the direction of the dressing room.
20 They entered the room and he then immediately shut the door, a
21 door that the Bergdorf Goodman employees told you would have
22 locked automatically. You heard Ms. Carroll testify about how
23 much she regrets going into that dressing room with Donald
24 Trump that day, how she has asked herself time after time after
25 time why she allowed herself to get caught up in that

N585car2

Summation - Ms. Kaplan

1 situation. She testified that for many years and, indeed, I
2 think to this day, she feels embarrassed, ashamed, and above
3 all stupid, and that she blamed herself for what happens next.
4 As you heard from Dr. Lebowitz, she still does.

5 How could she have agreed to go into the dressing room
6 with Donald Trump? That's a question one might ask today with
7 the benefit of hindsight, just as Ms. Carroll has asked it over
8 and over again. But that's not what Ms. Carroll was thinking
9 in the spring of 1996. To her the situation was harmless, it
10 was funny. She trusted Donald Trump. She didn't see him as a
11 threat the way some women might view him today. He was known
12 as a playboy, a man about town, but not as a man who abused or
13 assaulted women.

14 As soon as they entered the dressing room, Trump
15 suddenly pounced. He closed the door, he lunged at
16 Ms. Carroll, he pushed her against the wall causing her to hit
17 her head backwards against the wall and he pressed his mouth
18 against hers. Ms. Carroll told you that she was shocked. She
19 laughed, actually, in fear and panic, trying to get back to the
20 way things were before, trying to kill anything that was sexy
21 or erotic about what was going on. She pushed back at Trump,
22 trying to get him off her but at first she couldn't. She
23 weighed at the time only 120 pounds, he weighed at least a
24 hundred pounds more than she did. She continued fighting,
25 pushing, and kicking at him. She tried to stomp him on his

N585car2

Summation - Ms. Kaplan

1 shoes with her 4-inch high heels. She also tried to hit him
2 with her purse, trying to do anything to make him stop. Trump
3 pinned her against the wall with his shoulder. At the same
4 time he reached up under her dress and he pulled down her
5 tights. He grabbed her by the pussy or vagina -- I apologize
6 for my language -- and then he shoved his fingers inside her.
7 You heard Ms. Carroll describe how incredibly painful that was.
8 Trump then removed his hand and shoved his penis inside her.
9 Continuing to fight, Ms. Carroll was finally able to get a knee
10 up high enough to push Trump off of her. Terrified and
11 stunned, she opened the dressing room door and escaped. She
12 fled through the store and out onto the Fifth Avenue exit. The
13 whole attack happened quickly, a few minutes at most, but it
14 would stay with Ms. Carroll forever.

15 In the immediate aftermath of the attack, as you
16 heard, E. Jean Carroll told two separate people what happened.
17 She called her friend Lisa Birnbach from the sidewalk on Fifth
18 Avenue outside the Bergdorf Goodman and she told her friend
19 Carol Martin a day or two later. You saw and heard both of
20 them in this courtroom. Let's talk first about Ms. Birnbach.

21 She told you that she received a phone call from
22 Ms. Carroll in the spring of 1996 when she was giving her kids
23 dinner. Ms. Birnbach said when she picked up the phone,
24 E. Jean Carroll sounded agitated like she was hyperventilating.
25 Lisa Birnbach told you that E. Jean proceeded to tell her that

N585car2

Summation - Ms. Kaplan

1 she had gone into a dressing room with Donald Trump, that he
2 pushed her up against the wall, he hit her head and pulled down
3 her tights and forced himself inside her. Ms. Birnbach told
4 you that upon hearing what had happened, she left the kitchen
5 so her kids wouldn't be able to overhear her, and told
6 Ms. Carroll, in no uncertain terms, E. Jean you have been
7 raped. The fact that she left the kitchen, by the way, is a
8 very telling detail, it is the kind of detail that someone
9 doesn't make up.

10 Ms. Birnbach also told Ms. Carroll to tell the police,
11 to go to the police, she even offered to go with her. But as
12 Lisa Birnbach testified, E. Jean Carroll said she didn't want
13 to go to the police and she made Lisa promise never to tell
14 anyone about it ever again. Lisa Birnbach agreed to that. As
15 she explained it to you, it was E. Jean Carroll's story, it was
16 her secret, it was not Lisa Birnbach's story or secret to tell,
17 so she promised not to tell anyone and she kept that secret for
18 two decades. Let's now go to Carol Martin.

19 A day or two after the attack at Bergdorf Goodman,
20 E. Jean approached her good friend Carol Martin, who was
21 actually her closer friend at the time, at the America's
22 Talking offices in New Jersey. They decided that they would
23 talk at Ms. Martin's house which is only 10 minutes away, by
24 car, from work. After work they each drove their own cars to
25 Ms. Martin's house and they went in the house and sat down at

N585car2

Summation - Ms. Kaplan

1 the kitchen island in Ms. Martin's house. At that island
2 Ms. Carroll described what Donald Trump had done to her. Carol
3 Martin told you that she was shocked by what she heard and she
4 hugged Ms. Carroll, continually asking her if she was OK.
5 Carol Martin also testified that she told E. Jean Carroll that
6 it would be crazy for her to report the attack to the police.
7 She advised E. Jean to tell no one and to do nothing. Trump,
8 in Ms. Carroll's mind, was way too powerful, he would bury her
9 if she came forward.

10 Together in this courtroom Lisa Birnbach and Carol
11 Martin provided powerful, independent corroboration of E. Jean
12 Carroll's story. Ms. Carroll spoke with both of them at the
13 time separately. They didn't know each other very well at that
14 point in time and weren't really friends but they each gave
15 Ms. Carroll very different advice and they both sat right over
16 there and told you that they believed Ms. Carroll when she
17 first told them what had happened and they continue to believe
18 her today.

19 Let's now turn to what happened after the attack.
20 E. Jean Carroll returned home that evening with pain in her
21 head and in her vagina, but because of the kind of person she
22 is, rather than taking anything, anything stronger than an
23 aspirin or going to the doctor, she went right to bed. She
24 even went to work the very next day. But despite her best
25 efforts, the assault continued to interfere with her life. She

N585car2

Summation - Ms. Kaplan

1 testified that she had regular flashbacks or intrusive
2 memories. She never again engaged in an intimate relationship
3 with another man. You heard Ms. Carroll explain to you that
4 she lost out on so much of life; no walking the dog together,
5 no cooking dinner together, no one to sit with while you are
6 watching TV. And for years she never told anyone else about
7 what had happened in that dressing room. That is partly
8 because of how she was raised. You heard her sister Cande
9 Carroll explain that in their family they never talked about
10 personal issues. E. Jean Carroll faced life's challenges by
11 putting on the public persona that she had built her career
12 around, the public E. Jean, as she explained it here in this
13 courtroom. She kept her pain and isolation or the private
14 E. Jean to herself. Her sister explained to you that, as
15 children, they were always told by their father to always have
16 a smile on their face, and that's what E. Jean Carroll did.
17 And she, justifiably, was scared that Donald Trump would
18 brutally retaliate if she spoke out, as her friend Carol had
19 warned her he would do, and as we all know since we are sitting
20 here today, he eventually did.

21 Over two decades later, in 2018, Ms. Carroll set off
22 on a road trip in order to write her next book. During that
23 trip, news broke on the Internet and nationwide that many women
24 were speaking out about being sexually abused or assaulted by
25 the famous Hollywood producer Harvey Weinstein. Ms. Carroll

N585car2

Summation - Ms. Kaplan

1 started drafting a list of the men who had mistreated her; some
2 in small humorous ways, like the guy who failed to fix her car,
3 and others in big ways. But, at first, one man in particular
4 was not it on that list. It would be weeks before she would
5 decide to include Donald Trump. She told you here herself why
6 she finally came forward. She could not be silent any longer.
7 It was time, finally, to tell her readers the truth.

8 In June 2019, an excerpt of her book recounting the
9 attack by Trump, was published in *New York* magazine. As it
10 turns out, Carol Martin was 100 percent right. Donald Trump's
11 response was immediate and it was brutal. He went much further
12 than just denying her claim. From the White House he unleashed
13 a series of vicious lies telling the world that she had made
14 the whole thing up, that she was doing it as part of a
15 political conspiracy, and that she was not his type. As a
16 result, Ms. Carroll lost her job at *Elle* magazine where she had
17 worked for the last 27 years. But perhaps much worse than
18 that, she lost the trust of her readers. She had spent almost
19 four decades as a writer working so hard to establish her
20 reputation for honesty and integrity. Her former Editor Robbie
21 Myers told you that to her readers, E. Jean Carroll was a
22 beloved truth-teller, but in a couple of Tweets, Mr. Trump
23 wiped that all away.

24 The backlash from Donald Trump's statements was
25 terrifying. You heard E. Jean Carroll tell you that she

N585car2

Summation - Ms. Kaplan

1 started sleeping at night with a loaded gun in her bed.

2 E. Jean Carroll made the decision, one of the bravest
3 things I have ever seen, to do the one thing she thought she
4 could do to help restore her name, her reputation for honesty,
5 and her integrity -- she filed a lawsuit against Donald Trump.
6 But even that did not stop him. In October 2022, just last
7 year, just as Ms. Carroll told you that she was finally
8 starting to get back, to regain her footing after the earlier
9 attack, Mr. Trump doubled down on every nasty lie he had told
10 about her in 2019 calling her story a con job and a hoax.

11 As Ms. Carroll told you, just as she was getting back
12 up and feeling better, this is the statement that went out.
13 So, when New York passed a law allowing survivors of sexual
14 assault to bring claims, even if the attack happened years ago,
15 Ms. Carroll filed this lawsuit that we are sitting here today
16 for.

17 Now, Ms. Carroll's -- withdrawn.

18 I forgot to show this to you and it is my fault.
19 These are the responses that E. Jean Carroll got -- some of the
20 responses she got, many, many in response to the October 2022
21 statement, and I will let you take some time to read them. I
22 apologize for that. I apologize in advance, given the
23 language. I'm not going to try to read them out loud.

24 OK. Ms. Carroll's case is not only corroborated by
25 documents like you just saw, and by testimony that I have been

N585car2

Summation - Ms. Kaplan

1 talking about, it is also corroborated by science, by what
2 psychologists have learned about what happens to someone when
3 they experience trauma like a sexual assault.

4 Dr. Leslie Lebowitz is a clinical psychologist who has
5 been seeing people who have experienced trauma for four
6 decades. She treats veterans for PTSD following combat. She
7 has worked with veterans in the Air Force to train them on how
8 to deal with sexual assault. She has worked at some of the
9 most important medical centers that have developed the current
10 treatment protocols for how you deal with people who have been
11 injured by trauma. Dr. Lebowitz's testimony backs up each and
12 every aspect of what Ms. Carroll told you, from how she reacted
13 to the sexual assault itself, to how she remembers it, to how
14 she was harmed by the assault in the long-term. Let's start
15 with the sexual assault itself.

16 Dr. Lebowitz explained exactly what happens to a
17 person when they experience trauma. What happens is that a
18 person's brain is flooded with stress hormones. The frontal
19 lobe of the brain -- the part of the brain that we use to make
20 decisions, to think through alternatives and decide what to
21 do -- that part of the brain is significantly weakened.
22 Instead, the older, the more primitive part of the brain in the
23 back takes over. As a result of that, people tend to act in
24 really strange ways, in ways that may seem irrational.
25 Dr. Lebowitz explained how sometimes people forget -- or often

N585car2

Summation - Ms. Kaplan

1 people forget how even to dial 911. Dr. Lebowitz gave you a
2 great example of this.

3 Remember what she told you about her mother's friend
4 who was a child in Finland during World War II? She told the
5 story that this woman was with her mother as a child and bombs
6 were falling. The force of a bomb blew away the mother's hat.
7 Instead of grabbing her daughter's hand and running to safety,
8 the mother ran after her hat. That mother loved her child. In
9 that moment she didn't consciously choose to run after her hat,
10 she wouldn't have expected to do that and she probably wouldn't
11 be able to explain to you sitting here today why she did it.
12 That's the brain chemistry of a person experiencing trauma.

13 Now, you heard Donald Trump's lawyers repeatedly ask
14 Ms. Carroll why she was laughing when she got first pushed up
15 against the wall. They repeatedly asked her why she didn't
16 scream. They acted as if Ms. Carroll's response was unusual,
17 unheard of, implausible. But you now understand why those
18 reactions are consistent with the behavior of someone who is
19 experiencing trauma. Dr. Lebowitz explained it to you. People
20 have really strange, really unexpected responses to traumatic
21 situations all the time.

22 Remember when Mr. Trump's lawyers asked Dr. Lebowitz
23 whether or not screaming would be consistent with a rape? Here
24 is what she said. She said that not screaming would not only
25 be absolutely consistent with being raped, but based on her

N585car2

Summation - Ms. Kaplan

1 40 years of clinical work, screaming is one of the least likely
2 things that actually occurs.

3 Dr. Lebowitz' testimony also helps to explain the ways
4 in which Ms. Carroll remembered the attack by Donald Trump
5 after it happened. So, first of all, Dr. Lebowitz told you
6 that people tend to remember lots of details from the beginning
7 of a traumatic event but far fewer details at the end. Why is
8 that? It's because those stress hormones, as they come into
9 the brain, over time, become toxic and they impinge on the
10 brain's ability to remember things.

11 In addition, there are certain things that people
12 remember from a trauma better than others. What people tend to
13 remember are sense reimpressions -- the way something smelled,
14 the way it felt -- since its easier for the brain to remember
15 that and to store it. But people may not remember more
16 complicated things like the context of what was happening when
17 it was going on outside the trauma.

18 Remember the example Dr. Lebowitz gave you? She
19 talked about parents who thought their child had been hit by a
20 car when they heard the screeching of tires outside their
21 house. The sinking feeling that they felt in their gut when
22 they ran outside and didn't see their child. That sinking
23 feeling -- I am sure we have all experienced it -- may stick
24 with you for years and years. But even if that sinking feeling
25 remains, the parents -- and I am sure you have also experienced

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Summation - Ms. Kaplan

1 that too -- may later disagree about what exactly the date was
2 when that happened or even what house they were living in at
3 the time.

4 Think about how that explains E. Jean Carroll's
5 testimony here. She remembers certain things from her
6 encounter with Donald Trump in vivid, technicolor detail. She
7 remembers the back and forth about trying on the bodysuit in
8 the lead-up to the assault. She remembers the gifts they were
9 talking about, the hat that she said Donald Trump petted and
10 the handbag that they looked at on the first floor. She
11 remembers distinctly some of the exact words they exchanged.
12 *Hey, you're that advice lady.* She remembers exactly how it
13 felt to have Trump's fingers inside her. And -- I find this
14 part really telling -- she remembers the sound of Trump's heavy
15 breathing as he was facing the wall next to her neck. But
16 Ms. Carroll does not remember exactly how she got out of the
17 store and she has made no secret of the fact she doesn't
18 remember the exact date. She remembers -- just like
19 Dr. Lebowitz said, she remembers certain things vividly and
20 other things not so much. Again, that's exactly what you would
21 expect to see in someone who has survived trauma.

22 Dr. Lebowitz also testified to you about how
23 Ms. Carroll processed the rape and how that contributed to her
24 decision not to talk about it for so many years. She said
25 that -- Dr. Lebowitz said that E. Jean Carroll experienced what

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Summation - Ms. Kaplan

1 is called self-blame. In many ways that kind of means what it
2 says, it is to blame yourself. But the problem with self-blame
3 is that people may blame themselves for something, even like
4 here, when they have no responsibility for it. They know in
5 their head it wasn't their fault but they still feel in their
6 gut like it was.

7 Ms. Carroll presents a classic case of self-blame.
8 Self-blame helps to explain why she didn't go to the police,
9 why she didn't go to store security right after the assault,
10 and it explains why she had so much difficulty talking about
11 the assault in the years that followed.

12 Finally, Dr. Lebowitz talked about the long-term harm
13 that the sexual assault caused Ms. Carroll. Self-blame,
14 itself, is a big part of that. Imagine what it would feel like
15 to feel like you were responsible or to blame being sexually
16 assaulted. It made Ms. Carroll feel dirty and unworthy and
17 spoiled, like spoiled goods, and ashamed.

18 Ms. Carroll also experiences what psychologists call
19 intrusive memories. They come in snippets or flashes. She
20 doesn't, to this day, know exactly what the triggers are. She
21 might unsuspectedly see an image of sexual assault. She might
22 actually feel physically Trump's fingers. When these
23 intrusions occur, she has to work really hard to bat them away.
24 That process of trying to get the ugly thoughts and intrusive
25 memories out of her mind is itself really tiring and

N585car2

Summation - Ms. Kaplan

1 emotionally draining. But perhaps, most important of all,
2 Dr. Lebowitz testified that the sexual assault caused E. Jean
3 Carroll to engage in what are called avoidant behaviors, that
4 means something you do something to avoid something else. For
5 Ms. Carroll, this meant that she would avoid engaging in the
6 types of activity that she blames herself for that led to the
7 sexual assault. What does that mean? It means that when she
8 encounters a man of a similar age who might seem like a
9 romantic possibility, she literally shuts down. She doesn't
10 flirt, as she did that day, with Donald Trump at Bergdorf
11 Goodman. She doesn't engage, as she did that day, with Donald
12 Trump; she avoids eye contact. As Dr. Lebowitz told you, it is
13 like a metal grate being pulled down over the front of a bodega
14 in New York City. This is a huge departure from the way
15 E. Jean Carroll lived her life before the assault. She used to
16 have a healthy dating life, she was married twice, she loved
17 romance, she loved being in love, she continued to date men
18 until right up when the sexual assault happened. But
19 afterwards, she cut herself off from any possibility of
20 developing a romantic relationship. For almost 30 years she
21 hasn't had a partner, for almost 30 years she hasn't had
22 companionship.

23 Finally, Dr. Lebowitz did not exaggerate, in any
24 respect, Ms. Carroll's harms. Dr. Lebowitz told you, and
25 recognizes, that Ms. Carroll is a very resilient person. She

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Summation - Ms. Kaplan

1 acknowledged that E. Jean Carroll has drawn on that resiliency
2 and strength to cope with the trauma she experienced. She did
3 not diagnose E. Jean Carroll with PTSD. She says she has
4 symptoms in two of the categories but not all four that are
5 necessary, and that she is not disabled the way she talked
6 about with some of those veterans she had diagnosed with PTSD.

7 Dr. Lebowitz also freely acknowledged certain aspects
8 of Ms. Carroll's life after the sexual assault that might seem
9 weird or unusual to you and that Mr. Trump's lawyers pointed
10 out. She was aware that Ms. Carroll had watched *The Apprentice*
11 on the TV, she was aware that E. Jean Carroll kept the dress
12 from the day of the assault, and she was aware that E. Jean
13 Carroll returned to Bergdorf Goodman. She explained that these
14 behaviors were consistent with who E. Jean is, her need to
15 avoid the fact that she had been negatively impacted in any way
16 by Donald Trump. In other words, throwing away a very
17 expensive dress, refusing to watch a popular TV show that all
18 your friends were talking about, or not going back to her very
19 favorite store that would have forced her to acknowledge
20 something too painful for her, that the assault had impacted
21 her deeply.

22 Now, one more thing on Dr. Lebowitz. Donald Trump's
23 lawyers tried to suggest that maybe Ms. Carroll had somehow
24 tricked Dr. Lebowitz into arriving at her opinion based on
25 lies, on false or exaggerated information. Do you remember

N585car2

Summation - Ms. Kaplan

what Dr. Lebowitz said in response to that? She testified that it was her opinion, as a psychologist with 40 years of experience, that E. Jean did not lie about her symptoms and experiences in order to benefit her case. This, ladies and gentlemen of the jury, is a very big deal. The psychological expert in this case told you that she believes Ms. Carroll.

I now want to talk about the ways Mr. Trump and his team have tried to attack all the evidence that we have just gone through supporting E. Jean Carroll. One principal line of attack, the one main line of attack that they have has focused on the way that E. Jean Carroll has lived her life in the years since she was attacked.

During his cross-examination of Ms. Carroll, Mr. Tacopina asked her a lot of questions about the fact that in the years after the assault and right up until today, if someone on a TV show or a podcast or in the hallway outside this courtroom asked E. Jean Carroll how she was doing, she would almost inevitably always answer that she is fabulous. Ms. Carroll freely acknowledged that in many of her public appearances she would say that her career was going well, that she was happy. She also acknowledged that from time to time she even would go to parties with her friends. When Mr. Tacopina asked these questions on cross-examination, he acted as if E. Jean Carroll had made some huge confession, as if there were something wrong with this behavior, as if it is

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Summation - Ms. Kaplan

1 somehow problematic that E. Jean Carroll has tried her best to
2 live a happy life and present a brave, brave face to the world.
3 But Ms. Carroll testified here that as much as she had to try
4 to portray the public E. Jean as happy and successful, as
5 fabulous -- she used her favorite word -- in private she has
6 continued to suffer a great deal. She has tried to live her
7 life on her own terms as best she can. She has continued to
8 work. She talked about setting up her Substack after she was
9 let go at *Elle*. She has enjoyed time for happiness. And she
10 has definitely gone to parties with friends. Why is Mr. Trump
11 trying to blame Ms. Carroll for these things? His argument
12 seems to be that if a woman is going to accuse a man of sexual
13 assault she must play the part, she must act the way a rape
14 victim is somehow supposed to act. But this makes no sense and
15 you know that. If a person is the victim of any other kind of
16 wrongdoing, if they are injured in a car accident, if they get
17 mugged on the street, are they required to live a life of total
18 suffering and helplessness in order to seek justice in the
19 courts? Of course not. But when it comes to survivors of
20 sexual assault, like Ms. Carroll, Donald Trump thinks she is
21 somehow not entitled to assert her claim if she has taken any
22 step to pick up the pieces of her life, to move on, to seek out
23 friends, to seek out company, to go to parties. That's just
24 plain wrong.

25 Now, you have heard Mr. Trump's team say over and over

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Summation - Ms. Kaplan

1 again that you should rely on Ms. Carroll's interview on
2 Anderson Cooper, that it somehow sheds light on whether or not
3 she was sexually assaulted. For example, in his October 2022
4 TruthSocial post that is Plaintiff's Exhibit 4, Donald Trump
5 says: If you watched Anderson Cooper's interview with her
6 where she was promoting a really crummy book, you will see that
7 it was a complete scam.

8 At his deposition in Florida that happened just a week
9 after that, Mr. Trump testified that on the Anderson Cooper
10 show E. Jean Carroll said that she loved it, that she said it
11 was very sexy to be raped, he even claimed that she said
12 something to the effect that she loved being sexually
13 assaulted.

14 Let's watch for ourselves.

15 (video played)

16 MS. KAPLAN: You know what E. Jean actually said. She
17 did not say being raped by Mr. Trump was sexy, or that she
18 loved -- loved -- being sexually assaulted by him. Not at all.
19 She explained that she was talking about our popular culture
20 and entertainment, shows like *Game of Thrones* where rapes
21 happen over and over again and that's part of drawing people
22 into the audience. She said that what Donald Trump did to her,
23 on the other hand, was violent and horrible.

24 Ms. Carroll testified, and you saw it for yourselves
25 in this courtroom, that she still has a very, very hard time

N585car2

Summation - Ms. Kaplan

1 using the word rape. But as we heard Dr. Lebowitz explain,
2 E. Jean's refusal to call what happened to her rape or to
3 identify herself as a victim does not mean that she was not
4 sexually assaulted.

5 Now, another way that Donald Trump responds to all of
6 this is by trying to get you to believe in the big lie. What
7 do I mean when I say the big lie? I mean that Mr. Trump's
8 lawyers need you to find that not only E. Jean Carroll, but
9 also Lisa Birnbach and Carol Martin are all lying, that they
10 are all part of some part of coordinated conspiracy, that they
11 somehow joined forces and agreed to come up with a story about
12 an assault that happened nearly 30 years ago simply because
13 they hate Donald Trump. I'm sorry. Seriously? That's just
14 ridiculous.

15 First of all, there is no evidence -- not a shred --
16 that any such conspiracy exists. No testimony. No documents.
17 Nowhere in all of those pages of e-mails and texts between
18 E. Jean Carroll, Lisa Birnbach, and Carol Martin did you see
19 anything suggesting that they all agreed to come up with a lie
20 that Donald Trump raped E. Jean Carroll. In fact, you saw the
21 opposite of that. You heard Ms. Martin read from a text she
22 sent to a friend in 2021 -- a friend, so it is not Lisa
23 Birnbach and she is not texting E. Jean Carroll -- another
24 friend, in which she expressed frustration that she was dealing
25 with the publicity from this case and she suggested that that

N585car2

Summation - Ms. Kaplan

At this trial you heard powerful evidence that Donald Trump has an MO. What's his MO? He chats up women in a friendly way in a semi-public place, he then pounces on them suddenly or unexpectedly, he then starts kissing them without their consent. For some of them, including E. Jean, he grabs them by the vagina. It is not just E. Jean Carroll who fit this pattern. You heard the testimony of two other women, Jessica Leeds and Natasha Stoynoff who were sexually assaulted by Donald Trump in a very similar way. Let me start with Jessica Leeds.

Jessica Leeds testified that, in 1979, Donald Trump assaulted her on an airplane. Just a few years younger than E. Jean Carroll, Jessica Leeds was a product of the same generation. She didn't tell a soul about it. She knew that things like this happened when she traveled and she didn't want to risk losing her job. But, in 2016 she watched a presidential debate and heard Donald Trump tell Anderson Cooper that he never kissed a woman without her consent. She came forward. And then what happened? Trump went after her. He declared that she was lying. He said -- and again, remember these words -- he told the world that she was not his type. Sound familiar, ladies and gentlemen of the jury?

You also heard from Natasha Stoynoff, it happens much later in time, now December 2005. Her job at *People* magazine is to cover the Trump beat, she covered the Trump family. In

N585car2

Summation - Ms. Kaplan

1 December 2005 she traveled to Mar-a-Lago to write a story about
2 his wife Melania who was then pregnant. Ms. Stoynoff told you
3 that when Melania left to change her outfit, Trump led Natasha
4 into an empty room, claiming that he wanted to show her a
5 painting, but as soon as they entered the room he closed the
6 door behind them, pushed her against the wall, pinned her down
7 with his shoulder, and started kissing her without consent.
8 Again, sound familiar?

9 Ms. Stoynoff, who is much younger than Ms. Carroll and
10 Ms. Leeds, told several people about the attack right
11 afterwards. His attorney, Mr. Tacopina, didn't really try to
12 cross-examine her at all. That's because they know it is true.

13 In 2016 Ms. Stoynoff came forward after hearing
14 Trump's denial in that same presidential debate. And when she
15 did, yet again, following the MO, Trump publicly disparaged
16 her, denying the attack, and again insulting her appearance.
17 This time he said: *Look at her. Go take a look at her. I*
18 *don't think so.*

19 There is even another similarity. You heard that just
20 like E. Jean Carroll, neither Jessica Leeds, nor Natasha
21 Stoynoff, screamed. None of them screamed when Donald Trump
22 was assaulting them. Not one.

23 So, what do we have? Three different women, decades
24 apart as you can see on this chart, but one single pattern of
25 behavior. In that respect what happened to E. Jean Carroll is

N585car2

Summation - Ms. Kaplan

1 not unique. Trump's physical attack and his verbal attacks are
2 his standard operating procedure or MO. What happened to
3 E. Jean Carroll right in the middle fits this pattern
4 perfectly.

5 Now let's take a look at Donald Trump's side of the
6 story. As I have said more than once this morning, Trump
7 really offers you nothing. It is Trump's word against everyone
8 else's word. As Bugs Bunny used to say at end of the Looney
9 Tunes cartoons I used to loved as a kid: *That's all, folks.*
10 But why would you believe him? The testimony in this case
11 shows that Donald Trump has told lie after lie after lie. What
12 does this tell you? Donald Trump lies as a matter of habit.
13 He lies about almost everything or anything all the time. Some
14 of his lies are big, some are not. But the pattern is clear.
15 Trump decides what to say based on what he thinks will help him
16 most in the moment, not based on what is true.

17 To trust someone they have to be credible. They must
18 be trustworthy, worthy of your trust. Time and time again,
19 Trump has shown you in this case that he is not worthy of
20 anyone's trust. Let me give just a few examples of Donald
21 Trump's clear lies.

22 First, Donald Trump said that he did not shop at
23 Bergdorf's. That was a lie. Cheryl Beall saw him right
24 outside the store and Robert Salerno saw him in the store on at
25 least one or two occasions in the mid-1990s. And you saw on

N582Car3

Summation - Ms. Kaplan

1 At this point, I believe that my review of the
2 evidence has shown you that it is very clear that Donald Trump
3 did in fact sexually assault E. Jean Carroll in the spring of
4 1996 and that he defamed her in 2022 after she told the truth
5 about what he had done.

6 Because Donald Trump did both of these things, the law
7 allows you to compensate E. Jean Carroll for the harm that she
8 suffered. So what is the level of damages? I'm not going to
9 stand here and tell you exactly how much you should award
10 E. Jean Carroll in damages, but there are a few things that you
11 can consider in coming to that conclusion.

12 First of all, Professor Humphreys told you about the
13 millions of people that heard and likely believed Donald
14 Trump's public statements about E. Jean Carroll. What is the
15 price for having to live your life in shame and to lose your
16 good name because Donald Trump lied and told millions of people
17 that you are a liar?

18 In addition, Dr. Lebowitz told you that the assault
19 caused E. Jean Carroll to lose something extremely important to
20 her and, frankly, to all of us, her ability to pursue romantic
21 relationships, her ability to pursue intimacy, and perhaps most
22 importantly, companionship. What is the price for decades of
23 living alone without companionship, for having no one to cook
24 dinner with, no one to walk your dog with, no one to watch TV
25 with, and for feeling for decades like you are dirty and

N582Car3

Summation - Mr. Tacopina

1 to protect ourselves, to show that while -- Ms. Kaplan said no
2 one is above the law, absolutely, but no one is below it
3 either. No one is below it either.

4 Politicians don't make this country great. Jurors do.
5 Jurors do. If you follow your solemn oaths as jurors in this
6 case and take them seriously and apply the facts to the law,
7 justice will be served quickly, quickly. And that's paramount
8 in this courtroom, that the rule of law that every defendant,
9 regardless of that defendant's name, be protected for the sake
10 of all of us.

11 With that in mind, the evidence in this case has shown
12 that what E. Jean Carroll has done here is an affront to
13 justice. She has abused this system by bringing a false claim
14 for, amongst other things, money, status, political reasons.
15 And I'm not just going to say it, I'm going to show you the
16 testimony. And in doing so, she has minimized real rape
17 victims, you know, rape victims down by the water and around
18 the world, to use someone's words. She is exploiting their
19 pain and suffering and is capitalizing on their stories, and we
20 can't let her profit to the tune of millions of dollars for her
21 abuse of this process and her efforts to deceive you. I'm
22 going to show you. I'm going to pull it all together for you,
23 I promise you, in this next little time we spend together. You
24 will have no doubt how this story, this scam of a lawsuit came
25 together.

N582Car3

Summation - Mr. Tacopina

1 As I said, you can feel however you feel about Donald
2 Trump. It's okay. But, guys, ladies and gentlemen, not a
3 single word, not a single word tearing apart her story comes
4 from Donald Trump. Ms. Carroll said it's the word of Donald
5 Trump against the word of everyone else. No, it's not. All
6 Donald Trump said was, I didn't do it. I don't know what she's
7 talking about. He just said, I didn't do it. He didn't tear
8 apart her story. She tore apart her story. Cross-examination,
9 Carol Martin, others tore apart her story.

10 You heard him deny through his deposition testimony
11 that she made it up. He met her briefly on a receiving line at
12 an event seven or eight years before she claims this happened
13 at Bergdorf Goodman, which hundreds of people were present, and
14 he didn't remember seeing her. And, you know, Ms. Kaplan then
15 said, well, maybe, maybe he saw her when he was at Roger Ailes'
16 TV show because, you know, she also filmed a show there. It
17 was four hours earlier, but maybe she saw him there or he saw
18 her there. And maybe he was watching late night TV and
19 watching a rerun on Roger Ailes' network of E. Jean Carroll.
20 So maybe. So that's proof that they knew each other. That was
21 the argument.

22 Look. That opening statement by Ms. Kaplan, again,
23 who I respect a lot, was very, very defensive for someone who
24 has the burden of proof in this case, very defensive. She
25 spent a large part of her opening presenting excuses. The

N582Car3

Summation - Mr. Tacopina

1 store was empty, the door was open, why she acted and didn't
2 act the way she did, oh, the text messages from Ms. Martin and
3 Ms. Birnbach and all that, a lot of excuses, not a lot about
4 the substance of what was alleged here.

5 I'm going to now, so we get this out of the way, play
6 you the defendant's sworn testimony denying this claim, so
7 there is no question that he has denied this under oath, being
8 questioned by the same lawyer sitting here today.

9 Go ahead, please.

10 (Video played)

11 MR. TACOPINA: So that was his under oath testimony
12 saying it's not true. I didn't do it.

13 Now I'm going to harken back to that in a second, but
14 before I do, let's just put up Plaintiff's Exhibit 12. This
15 whole thing about he knew her, knew her, met her, seriously,
16 this is smoking gun evidence that he knew her, that they met at
17 some event for a few minutes on a line or -- and by the way, if
18 you look at this, Mr. Trump is clearly addressing John Johnson
19 right there with his fingers extended towards him,
20 Ms. Carroll's ex-husband, but for some reason she held on to
21 this photograph for three decades and brought it to court as
22 some sort of proof that they knew each other.

23 Look. Donald Trump doesn't have a story to tell here
24 other than to say it's a lie, what you heard him say and how
25 outrageous it is to be accused of rape, the worst thing you

N582Car3

Summation - Mr. Tacopina

1 could accuse someone of, rape. You heard him say under oath,
2 being questioned by Ms. Kaplan -- and understand this, folks,
3 we are not arguing, and I think you know this by now, but we
4 are not arguing consent, meaning this was a consensual act
5 where Ms. Carroll was okay with it and Mr. Trump was playing
6 along.

7 I mean, by the way, Ms. Carroll said she wouldn't have
8 even sued him if he had simply just said it was consensual,
9 which is ridiculous. Think about what she is saying here.
10 Suddenly being lunged at, having her head banged against the
11 wall twice, that it hurt, being physically restrained, having
12 his chest pressed so heavily into her that it prevented her
13 from screaming, having someone forcibly put their penis in
14 without an invitation, and causing to engage in a colossal
15 battle to free herself by stomping her feet, hitting him, and
16 pushing the person off with her knee could somehow be viewed as
17 consensual? She literally said to him, I don't think I would
18 have sued him if he just said it was consensual. A rape is a
19 rape is a rape. That's just as much a rape as anything else.

20 We are saying it never happened because it did not
21 happen. I don't think anyone seriously thinks this happened in
22 Bergdorf Goodman in the lingerie section of a department store
23 in New York City, open department store and Donald Trump, one
24 of the most famous people in New York City, in there.

25 But think about this here. The evidence in this case

N582Car3

Summation - Mr. Tacopina

1 it was commented, oh, well, we didn't call any witness. Well,
2 who? I could say to any one of you, You stole my pen on some
3 unknown date. How do you prove you didn't do it? How do you
4 prove a negative? You stole my pen, Mr. DeOreo. How do you
5 prove you didn't do it? Say, I didn't do it? Call witnesses?

6 I mean, if something is completely made up, the only
7 way to defend yourself against that accusation is by
8 challenging the people who made it up and the story itself.
9 That's why our defense came out through cross-examination in
10 this case. The entire defense came out through
11 cross-examination of their witnesses. Challenging the story is
12 our defense. There are no witnesses for us to call. Who are
13 you going to call? Somebody who wasn't in Bergdorf Goodman on
14 some unknown date? There is no witnesses for us to call
15 because he wasn't there. It didn't happen.

16 And if Donald Trump testified, what could I have asked
17 him? What could I have asked Donald Trump that he wasn't just
18 asked in that day-long deposition? Where were you on some
19 unknown date 27 or 28 years ago? I mean, that would have to be
20 the question because they don't know the date, they don't know
21 the year. And why is there no date to an event as significant
22 as this in someone's life? No date. By Ms. Carroll, by
23 Ms. Birnbach, and by Ms. Martin. It's not a coincidence all of
24 them can't narrow down a time frame because they don't want to
25 give Donald Trump the opportunity to present an alibi witness.

N582Car3

Summation - Mr. Tacopina

1 Give me a date. November of 1995, November 7, April 3 of 1996?
2 Sure. There's calendars. There's schedules. There's
3 appointments. We could see where he was. But of course with
4 no date, no month, no year, can't present an alibi. Can't call
5 witnesses.

6 For the first time at trial Ms. Carroll actually said
7 to you or to anyone she always thought it was a Thursday night.
8 She always thought it was a Thursday. The first time, that
9 happened at trial. But she didn't say beforehand, she said,
10 because she wasn't 100 percent sure. This from a person who
11 gave you two different years, two different seasons. Obviously
12 she wasn't sure about that. She had no problem giving you
13 that. But Thursday, she wasn't 100 percent sure, so she didn't
14 want to say Thursday. But now she claims she didn't say the
15 day of the week because she wasn't 100 percent certain. She
16 only said Thursday, ladies and gentlemen, for the first time
17 ever at this trial because she just watched the witness before
18 her, the Bergdorf Goodman lady come in here and testify that
19 Bergdorf Goodman was open late on Thursdays. She tailored her
20 testimony right in front of you, right in front of you, one of
21 several times, and we're going to get there.

22 And by the way, this is a civil case. Ms. Kaplan is
23 right. This is a civil case. If they wanted to, they could
24 have called Donald Trump as a witness. They could have asked
25 him questions. They didn't want to do that. Instead, what

N582Car3

Summation - Mr. Tacopina

1 they want is for you to hate him enough to ignore the facts.

2 That's what they want. They hope you will hate him enough, you
3 will ignore her story, but that story makes no sense by her own
4 admission, by her own admission. They want you to focus on
5 anything but her story. Her whole opening summation was about
6 the excuses, not the story.

7 They call Robbie Myers, the last witness to the
8 witness stand, Robbie Myers, the former editor in chief at *Elle*
9 who left in 2017, before Ms. Carroll was terminated, years
10 before Ms. Carroll was terminated? To tell you what? That she
11 was a great writer? How is that relevant here? What was that
12 hour of our lives wasted for? Robbie Myers.

13 They called Cande Carol, the sister of Ms. Carroll,
14 who said, well, we never shared negative things with our
15 parents because we were private. That's not private. That's
16 family. Private. Private is I don't tell my friends something
17 embarrassing or something like that. That's her family. They
18 brought her in here to give that excuse. Oh, we didn't share
19 anything private. It's family. Our dad told us to always
20 smile. Seriously? That was -- that was why she was called to
21 the witness stand? Dad always said smile, so we couldn't talk
22 about bad things in our house ever, in our family ever. That's
23 why Ms. Carroll didn't tell anyone. Really.

24 And even when learning about this alleged rape in an
25 e-mail from her sister, Cande Carroll didn't ask her sister,

N585car4

Summation - Mr. Tacopina

1 write things like: Threw the ball to the dog. Took a walk.
2 That's what she puts in there: Dear Diary, Today I took a
3 walk.

4 You know, you know that is not true. And you know it
5 is not true also not just because I am saying it is not true
6 but because common sense says it is not true because the last
7 thing you heard in this case, which is a stipulation which
8 means an agreement between the two parties, establishing that
9 Ms. Carroll had in fact made negative entries in her diaries,
10 that he listed three of them. She made negative entries in her
11 diaries, just not that one.

12 All objective evidence cuts against her -- all of
13 it -- in this case. So they don't present evidence, they
14 present excuses for lack of evidence and they don't make sense.
15 They just hope -- again, I keep saying it because it is the
16 only reason we are here -- they hope you will be blinded by the
17 hatred for Donald Trump if you feel that way. They just hope.

18 So how did this unbelievable story come about? What
19 are the motivations for it? Well, the genesis of the story is
20 Ms. Carroll's book. She told you people would be interested in
21 Donald Trump's story and selling books was important to her.
22 She tried to downplay that motivation claiming -- remember this
23 one -- I don't know what a signing bonus is. She used that
24 exact term herself. This is trial testimony in front of you
25 all, you jurors who she swore to tell the truth to here.

N585car4

Summation - Mr. Tacopina

1 good friend Carol Martin, not me. Let's go through it and see
2 if you think it is consistent with someone who went through
3 what she claims she went through.

4 You heard she had a watch party for her lawsuit like
5 it was a movie premier or an NFL drafting or something. They
6 had a watch party for her lawsuit so people could gather around
7 and celebrate her. And remember the reaction she blurted out
8 on the witness stand about that? She was reading e-mails about
9 her parties and watch parties and all the celebration of her
10 and she said, *I'm happy to read these e-mails.* Just blurted
11 that out. E. Jean Carroll told you status in New York was
12 important to her, that's from her trial testimony.

13 "A Status is important in New York, that's for sure."

14 And her accusing Donald Trump definitely gave her her
15 status and media exposure, which she loved; you saw with her
16 agents: More. More. More. I want more TV. More
17 podcasts. And you saw her on Anderson Cooper living it up.
18 Living it up on CNN. Now, having -- to borrow her word -- she
19 was having a fabulous time. You saw her bizarre behavior on
20 that interview. You heard even stranger things she said. You
21 saw Anderson Cooper's reaction. He almost had a fit at the
22 end. Watch.

23 (video played)

24 MR. TACOPINA: So, you get to evaluate that yourself,
25 I don't have to tell you what you see there or what you should

N585car4

Summation - Mr. Tacopina

1 was raped by the president of the United States. That's when
2 she brought it out, when he was president. She said she made
3 more money with Substack, said she got her revenge on *Elle* with
4 her own admission, and received lots of love and support.

5 Look at this.

6 (video played)

7 MR. TACOPINA: Putting aside their reputational harm
8 expert, who is irrelevant if you find there was no sexual
9 assault, which there wasn't, but she comes in here,
10 Ms. Humphreys, and says she never measured the positive impact
11 of Ms. Carroll's accusation against Donald Trump, only the
12 negative. Meaning she ruled out the fact that the positive
13 impact, which Ms. Carroll talked about when she was talking
14 about the support and love, she didn't measure that, whether it
15 far outweighed the negative impact she had. But, more
16 importantly, the entire analysis is irrelevant here because,
17 again, Ms. Carroll was not defamed by Donald Trump when he
18 strongly denied the rape allegation. She wasn't defamed
19 because it was false. And remember, if there is no rape, there
20 is no defamation. And you will see when you get the verdict
21 sheet all the different rapes and assault, it is all one.
22 There is no sexual assault and there is no defamation, they go
23 hand in hand.

24 You heard, among others reasons, Ms. Carroll's
25 political motivation for making a false accusation. You heard

N582Car5

Summation - Mr. Tacopina

1 fabricated and made up.

2 Ms. Martin and Ms. Birnbach got sucked into something,
3 and I'm going to show you how it comes out through their
4 e-mails and text messages. And what's more plausible? That 27
5 or 28 years ago E. Jean Carroll called people she wasn't very
6 close with at the time to tell them—and no one else by the
7 way, no one else—that she was raped, who themselves didn't
8 tell anyone for 27 or 28 years, and one doesn't even remember
9 it, actually. Or—this is more plausible—that she told two
10 very, very close friends just a few years ago to go along with
11 the story, which at first was just meant to be a book, a book
12 and nothing more, that didn't identify them by name. They
13 weren't in the book by name.

14 They agreed because they hated Donald Trump with a
15 passion. You heard those words. Ms. Birnbach couldn't stop
16 thinking about him even when she was asleep, she said. She
17 hated him more than any person she has ever hated in her life.
18 So they hate him with a passion and never thought it would go
19 any further, never. Which sounds more believable? Remember,
20 Ms. Carroll never planned to file a lawsuit in this case until
21 George Conway, the democratic attorney, politically adverse to
22 Donald Trump, hated Donald Trump, got his hooks into
23 Ms. Carroll. Because up to that point she never planned on
24 filing a lawsuit. It was just about a book and selling books.

25 And, you know, because she first lied to you about

N585car6

Rebuttal - Mr. Ferrara

1 THE COURT: OK. Let's get the jury.

2 THE DEPUTY CLERK: Jury entering.

3 (jury present)

4 THE COURT: OK. We will now hear rebuttal argument on
5 behalf of the plaintiff.

6 Mr. Ferrara, you may proceed.

7 MR. FERRARA: Thank you, your Honor. Hi, everyone.

8 So, I have been sitting here, listening to

9 Mr. Tacopina, and he is a very good lawyer, but as Judge Kaplan
10 told you, there is a difference between argument and evidence.

11 What we presented to you in this case is evidence and what you
12 just heard, of course, was argument. No one is asking you to

13 find Mr. Trump liable because you don't like him. We are

14 asking you to find him liable based on the evidence you saw and
15 heard in this courtroom, evidence like Ms. Carroll's powerful,

16 credible testimony that Donald Trump sexually assaulted her;

17 Lisa Birnbach and Carol Martin's testimony that Ms. Carroll

18 told them immediately after the incident; Natasha Stoynoff and

19 Jessica Leeds' testimony that Donald Trump did the same thing

20 to them, sexually assaulted them in very, very similar ways;

21 the witnesses who worked at Bergdorf Goodman in the mid-1990s

22 who told you the store was often very quiet on Thursday nights

23 and that Donald Trump shopped there from time to time;

24 Dr. Leslie Lebowitz, who explained the psychology of

25 Ms. Carroll and other trauma victims; and you heard from Donald

N585car6

Rebuttal - Mr. Ferrara

1 Trump himself that this is how he treats women, that attacking
2 beautiful women is just something he does and can do,
3 fortunately -- that's his word -- because he is a star.

4 That was the evidence. Evidence that leads to only
5 one conclusion: That Donald Trump sexually assaulted E. Jean
6 Carroll in that dressing room and then he lied about it and
7 defamed her. That's what the evidence showed.

8 You heard Mr. Tacopina say, you know, who can you call
9 as a witness to disprove that something like that happened?
10 And I have an idea for him. It is a little late, but maybe
11 Donald Trump. But he wasn't here. It's funny that
12 Mr. Tacopina started his closing by talking about the justice
13 system and respect for the system when his own client didn't
14 have enough respect to come in to this court during this trial.
15 I guess he had better things to do. He is not president
16 anymore, it is not like he has to meet with heads of state or
17 worry about the situation in Ukraine. He just decided not to
18 be here. He never looked you in the eye and denied raping
19 Ms. Carroll. Never did that.

20 So, the defense, confronted with our evidence and
21 having no witnesses of their own, they made a lot of arguments
22 and those arguments are not supported by any evidence. And we
23 will talk more about this but I'm going to give you an example
24 and it is this idea that Trump needs you to believe that
25 everyone is lying because they're in this grand conspiracy to

N585car6

Rebuttal - Mr. Ferrara

1 take him down and there is just no evidence of that. Yeah,
2 many of our witnesses are registered democrats and they have no
3 love for Donald Trump. It's true. That doesn't make them
4 unique and that's not evidence of a conspiracy.

5 Ms. Martin and Ms. Birnbach have built their careers
6 as writers and journalists based on trust that their viewers
7 and readers trust them. They're not going to throw away their
8 reputations and livelihood on some hair-brained scheme to take
9 down Donald Trump. But that's what the defense argued.

10 And in addition to ignoring the evidence, the defense
11 made several arguments which sort of contradict themselves.
12 The way I put it is they want it both ways. And I will explain
13 what I mean and will give you a couple examples. So, let's
14 take an easy one.

15 Trump's team, of course, has to argue that Ms. Carroll
16 is lying that Donald Trump assaulted her. OK. But here is the
17 thing. The defense also actually wants you to believe that
18 Ms. Carroll is telling the truth in all sorts of ways. For
19 instance, the defense wants you to believe that Ms. Carroll is
20 a happy person despite what Trump did to her. Which we told
21 you that. Ms. Carroll did. She told you that herself. She
22 didn't have to say that but she did because it was the truth.
23 The defense wants you to believe that, and you should.

24 The defense also wants you to believe, for example,
25 that other bad things have happened to Ms. Carroll in her life.

N585car6

Rebuttal - Mr. Ferrara

1 And again, that's true, and it was Ms. Carroll who told you
2 that herself.

3 So, there are lots of things Ms. Carroll told you that
4 the defense wants you to believe, the things she said that they
5 believed helped their case, but then they turn around and ask
6 you not to believe anything else, like that Trump assaulted
7 her. They want it both ways. We are asking you to credit
8 everything Ms. Carroll said, the good and the bad. The defense
9 is asking you to pick and choose because their argument depends
10 on having it both ways. You should reject that.

11 So, that's one, that's one of the ways that they sort
12 of, they want it both ways, and here is another example and I
13 previewed it a moment ago.

14 So, Mr. Tacopina is asking you to believe that
15 Ms. Carroll, Lisa Birnbach, and Carol Martin hate Donald Trump
16 so much they're willing to lie to you, commit perjury, risk
17 going to jail, risk their reputations and their careers as
18 trusted journalists to drum up some hair-brained scheme to take
19 down Donald Trump. But at the same time he shows you texts in
20 which they're gossiping about one another, they're talking to
21 friends, calling each other names. Which is it? Are they
22 conspirators in a scheme? Or are they gossiping with each
23 other about petty grievances?

24 Let's start with the scheme because there is no
25 evidence of this scheme. The best Trump's team can do is point

N585car6

Rebuttal - Mr. Ferrara

1 to an e-mail exchange you have seen between Ms. Carroll and
2 Ms. Martin where Ms. Martin refers to a scheme. And
3 Mr. Tacopina made a lot of that e-mail. He suggested that that
4 one word, from an e-mail Ms. Martin sent back in 2017, proves
5 that these three people got together and hatched a plan to come
6 up with a big lie that would take down a sitting president. So
7 let's look at it, let's look at the e-mail, it is Plaintiff's
8 Exhibit 122.

9 THE COURT: Are you having a problem? Thank you.

10 MR. FERRARA: There it is. Thank you, Mr. Lam.

11 So, Ms. Martin wrote: As soon as we are both well
12 enough to scheme, we must do our patriotic duty again.

13 So the defense argues that the patriotic duty, it is I
14 guess to come up with a lie to destroy Trump. But look at what
15 else Ms. Martin wrote. She wrote: We must do our patriotic
16 duty again. Mr. Tacopina read this about three times and he
17 never read the word "again." Why did she write "again?" Is
18 the defense suggesting that Ms. Carroll and her friends had, on
19 some previous occasion, accused some different president of an
20 assault? Does the defense have some evidence that these women
21 accused Ronald Reagan of rape that they haven't shown us? Of
22 course not. It is silly.

23 We can take that down. Thank you.

24 Ms. Martin told you what the scheme was and it makes
25 total sense. She said the scheme did involve a plan to ensure

N585car6

Rebuttal - Mr. Ferrara

1 rape law as this something that hasn't happened. This text is
2 from 2021. You heard earlier about this law which is the Adult
3 Survivors Act. Ms. Carroll testified about it and Judge Kaplan
4 explained it in his preliminary instructions at page 18 of the
5 transcript.

6 The law was passed in 2022 after Ms. Martin wrote this
7 text. Ms. Martin is saying Ms. Carroll is celebrating
8 something that might not happen, meaning the passage of the
9 law. And you heard that the law in fact later was passed and
10 Ms. Carroll did bring this lawsuit under that new law. That's
11 all that was. A friend gossiping about silliness. That's it.
12 It's boring. There is no scheme.

13 By the way, I will also mention that the timing of the
14 defense's sort of silly theory doesn't work at all. According
15 to them, Ms. Carroll published her account of Donald Trump to
16 take him down as president. Now, you recall Ms. Carroll
17 published that account online and in her book in June of 2019.
18 Mr. Trump was already president then. He had been elected in
19 November of 2016. Mr. Trump was elected after the *Access*
20 *Hollywood* video came out, that came out earlier in 2016. He
21 was elected after Natasha Stoynoff and Jessica Leeds had come
22 forward with their own accusations against him. They came
23 forward in October of 2016 before Election Day. So why is this
24 important? It is important because when America voted for
25 Donald Trump, we all knew how he treated women. By Election

N585car6

Rebuttal - Mr. Ferrara

1 Day of 2016, two women had spoken publicly about Trump
2 assaulting them -- Ms. Leeds and Ms. Stoynoff, and the Access
3 Hollywood tape had aired in which Trump admitted to grabbing
4 women by the you-know-what. That was all out there and America
5 voted for him anyway. So there was no way that Ms. Carroll,
6 Ms. Martin, and Ms. Birnbach would have ever thought that
7 another assault accusation over two years later was going to
8 have any effect whatsoever on whether Trump was re-elected. It
9 is dumb. The defense's made up conspiracy is just wrong.

10 Oh. Sorry. Don't let me forget. According to the
11 defense, these women were so stupid that they stole the idea
12 for their scheme from the plot of a Law & Order SVU episode.

13 This is Defendant's Exhibit CK which Mr. Tacopina
14 showed you. And then, Mr. Tacopina argues that, you know,
15 Ms. Carroll admitted when she testified she was aware of the
16 show. Yes. Yes, she was aware of the show -- from this
17 e-mail. The e-mail she received after she had already come
18 forward about Trump in her book. What does Ms. Carroll say in
19 response to the person alerting her to the SVU episode? She
20 says: I haven't seen it. Which is exactly what she testified
21 to on the stand.

22 And do you know where this e-mail came from? From
23 Ms. Carroll. If she was willing to commit a crime by lying
24 under oath and bringing a false lawsuit against Trump she would
25 also be willing to delete this e-mail. If this was a

N585car6

Rebuttal - Mr. Ferrara

1 But I was telling you how the defense wants it both
2 ways and so they want you to believe that these three people
3 are in this conspiracy but at the same time Mr. Tacopina showed
4 Carol Martin all those texts where Ms. Martin said some mean
5 things about Ms. Carroll and you remember them, Mr. Tacopina
6 went over them. Ms. Martin called Ms. Carroll narcissistic, a
7 little scary. She wrote that Ms. Carroll's lawsuit had gone to
8 another level that she had she couldn't relate, she was just
9 not there for it. You saw it.

10 So, the question is if Ms. Martin was in a secret
11 scheme with Ms. Carroll, why in the world is she complaining to
12 random friends about it? Which is it? Are they in grand
13 scheme to take down the president, or is Ms. Martin gossiping
14 to friend and calling E. Jean names? The defense argument
15 doesn't pass the smell test.

16 Or, remember what Lisa Birnbach told you. She said
17 that after Ms. Carroll told her about the assault she never
18 checked in with Ms. Carroll about it. She worked not to think
19 about it. It is weird, right? It is weird that Ms. Carroll
20 told her friend she had been raped and her friend never asked
21 about it again for 20 years. The truth is often weird. But
22 here is my point: No one lies like this. If Ms. Birnbach was
23 in a conspiracy with Ms. Carroll and was willing to commit
24 perjury and lie to you, she would tell you she thought about
25 the assault often. She would tell you that she frequently

N585car6

Rebuttal - Mr. Ferrara

1 asked Ms. Carroll if she was OK, that they had discussed it on
2 election night, because that's easier to understand and who
3 could prove her wrong? But what you heard was a witness --
4 Lisa Birnbach -- being completely honest with you, even when it
5 opened her up to difficult questions by the defense. She told
6 you the truth, not what she thought you wanted to hear. And,
7 you know the truth. Ms. Carroll was sexually assaulted by
8 Donald Trump and immediately told her good friends Lisa and
9 Carol.

10 When Ms. Carroll eventually came forward, Ms. Martin
11 was upset that she had to be deposed, that she had to testify
12 and turn over her private texts and e-mails, that she had to
13 fear for her safety. And so, like we have all done,
14 Ms. Martin, texting privately with her other friends, said some
15 unkind things about Ms. Carroll. We have all been there, we
16 have all been on both sides of that.

17 But here is another problem with the defense argument.
18 If Ms. Martin was scheming to help her friend file a lawsuit
19 against Donald Trump, she would know she was going to have to
20 turn over those texts and e-mails. These women aren't stupid.
21 She would know the end game was a lawsuit and they know that
22 would mean they would have to produce their communications.
23 Ms. Martin wouldn't have written those texts if she was
24 conspiring to help her friend file a lawsuit. And, if she was
25 willing to commit perjury, well then she would be willing to

N585car6

Rebuttal - Mr. Ferrara

1 delete the texts before ever giving them anyway. She didn't do
2 those things because this isn't a conspiracy. Ms. Martin --
3 she didn't want to be here but she came and testified because
4 it was the truth and she believed it was the right thing to do.

5 Last point on this. In all of those private texts you
6 saw there wasn't a single one in which Ms. Martin or
7 Ms. Birnbach ever questioned that Donald Trump had assaulted
8 Ms. Carroll because that's the truth. Ms. Martin said she
9 produced years' worth of texts -- that's at 1046 -- years'
10 worth, and not one of them did Ms. Martin ever question whether
11 Trump assaulted Ms. Carroll because she knew the answer to that
12 question and so do you. It happened. Donald Trump did it.

13 So, OK, let's talk about how else the defense wants it
14 both ways and this is also something I briefly touched on
15 earlier.

16 So, Mr. Trump publicly denied raping Ms. Carroll. And
17 of course that's part of the defense argument, that Ms. Carroll
18 made all of this up and it never happened. OK. But if that's
19 Trump's defense, why did Mr. Tacopina ask all those questions
20 about whether Ms. Carroll screamed, about whether she was
21 laughing, about whether she willingly went into the dressing
22 room with Mr. Trump? Those questions are about whether
23 Ms. Carroll consented to what Trump did to her. And
24 Mr. Tacopina agreed that this isn't a case about consent, that
25 consent is not their defense. So then why does it matter? If

N585car6

Rebuttal - Mr. Ferrara

1 he lied about it and defamed her. They didn't put on a defense
2 case because they don't have a defense. And that actually
3 leads me to another example of how the defense wants it both
4 ways.

5 Mr. Tacopina argues that we haven't carried our burden
6 of prove in this trial. And he is of course correct, it is our
7 burden. It is our burden of proof, we embrace that burden.
8 And, we have carried it. We have to prove it is more likely
9 than not that Trump assaulted Ms. Carroll.

10 Remember, as everyone agrees, right, this is not a
11 criminal case, the standard is not beyond a reasonable doubt,
12 and we have proven, by overwhelming evidence, that that assault
13 occurred. We are not worried about 51 percent but that's the
14 standard, so he told it to you accurately. And the question --
15 you are going to render a verdict based only on the evidence
16 you have seen in this courtroom. Only on the evidence in this
17 courtroom. You are going to be asked to decide whose version
18 of events is more likely. So think of it like a scale, right?
19 And the scale is balanced when the evidence on each side is
20 exactly the same and the question here is whether the side of
21 the scale with our evidence is heavier than the side of the
22 scale with the defense evidence. And the defense says no.
23 They say, no, it's not. But they're totally wrong because, as
24 you know, they didn't call any witnesses, not a single one, and
25 yet --

N585car6

Rebuttal - Mr. Ferrara

1 MR. TACOPINA: Judge, that's objectionable. Scales
2 are based on witness -- quantity of witnesses.

3 THE COURT: That's enough. Thank you.

4 Members of the jury I will instruct you.

5 Preponderance of the evidence refers, as has been said, to the
6 preponderance of the credible evidence. It means which side is
7 more likely right and that doesn't depend on who called how
8 many witnesses or put in what documents.

9 Go ahead.

10 MR. FERRARA: Mr. Tacopina argued that the defense
11 couldn't find any witnesses or evidence because Ms. Carroll
12 wasn't specific about the date. Remember this? That
13 Ms. Carroll is deliberately being vague about the date the
14 assault occurred because she doesn't want Trump to be able to
15 find any witnesses or evidence and he talked about not being
16 able to prove a negative or disprove that the assault happened?

17 Well, first things first. The reason they can't
18 disprove it is because it happened. OK? It's true. Trump
19 assaulted Ms. Carroll. And if it wasn't true, they would have
20 been able to find evidence that it wasn't true. And because it
21 is true, we were able to find evidence from that period of time
22 all of which backs up Ms. Carroll's testimony every step of the
23 way.

24 So, for example, Ms. Carroll said she had met Trump.
25 He said they hadn't. We have a photo from that period of time

N585car6

Rebuttal - Mr. Ferrara

1 showing the two of them speaking. That's Plaintiff's Exhibit
2 12, the photo where Trump mistook Ms. Carroll for Marla Maples,
3 his second wife.

4 Trump also said he never went to Bergdorf's. Well, we
5 found two people who worked at Bergdorf Goodman during that
6 period of time, Cheryl Beall and Robert Salerno. Mr. Salerno
7 remembers seeing Trump in the store and Ms. Beall remembers
8 seeing him right outside. So, that's one reason you should
9 reject Mr. Tacopina's argument that they couldn't find any
10 evidence. Because we did. We found evidence from that time
11 period and we showed it to you at this trial.

12 But there is a second, even simpler reason why the
13 Trump team is wrong when they argued that they couldn't find
14 evidence or witnesses. There were two people in that dressing
15 room back in 1996, Ms. Carroll and Mr. Trump. One of them
16 testified, one of them didn't. The defense didn't call
17 Mr. Trump to testify and you should conclude it is because he
18 would have hurt their case if he had. And that brings me to my
19 final example of how the defense wants it both ways.

20 They argue that Ms. Carroll lied when she testified to
21 you. Mr. Tacopina mentioned points he made on
22 cross-examination to try to argue that Ms. Carroll lied. You
23 saw her testify and you can tell from her demeanor and her
24 answers and all the other evidence that she was telling the
25 truth, but it's ironic that Mr. Tacopina points to his

N585car6

Rebuttal - Mr. Ferrara

1 cross-examination of Ms. Carroll as evidence that she lied
2 because Mr. Tacopina's client, Donald Trump, never took the
3 witness stand at all. He didn't even show up in court. And in
4 his attempt to make an excuse for his client's decision not to
5 attend this trial, Mr. Tacopina pointed out that Mr. Trump was
6 deposed. And you saw that. You also saw that Ms. Carroll was
7 deposed, twice, by some of the same lawyers in this courtroom.

8 Mr. Tacopina claims that it was enough that Trump was
9 deposed once over seven months ago. But then why wasn't it
10 enough that Ms. Carroll was also asked questions at her
11 deposition? Why did Mr. Tacopina have to spend nearly two full
12 days asking her questions during this trial if her deposition
13 was enough? Because that's not how this works.

14 Respect for the justice system. It was Ms. Carroll
15 who respected the justice system enough to walk into this
16 courtroom, swear an oath, look all of you in the eye, and
17 subject herself to two days of cross-examination. Donald Trump
18 did not do that. He could not do that.

19 Mr. Tacopina said to you minutes ago that you need
20 cross examination in your search for the truth. And we
21 couldn't agree more. What does that tell you? What does your
22 common sense tell you? If someone accused you of rape and you
23 didn't do it, you would run to the courtroom, look the jurors
24 in the eye, and tell them it never happened. Mr. Trump didn't
25 do that. Ms. Carroll was here every day, testified for over

N585car6

Rebuttal - Mr. Ferrara

1 two days, hour after hour of cross-examination. Not Trump.

2 Didn't want to answer our questions.

3 Mr. Tacopina criticizes Ms. Carroll's testimony
4 because she showed up, she swore an oath, and told you what
5 happened, and meanwhile, Donald Trump was nowhere to be found;
6 didn't come into the courtroom, didn't take the witness stand.
7 And you should draw the conclusion that that's because he did
8 it, because he raped Ms. Carroll and he didn't want to testify
9 about it.

10 Now, I mentioned that Mr. Tacopina has, at times,
11 cherry-picked portions of the transcript to show you throughout
12 his summation and I gave you one example and I want to come
13 back to a couple more.

14 Again, he is a good lawyer, he has the transcript, and
15 he showed it to you when it suited him to do that but he, at
16 times, did not give you the full context because it would hurt
17 his case to show you that so I will do it.

18 He put up a slide with a line of testimony from page
19 605 of Ms. Carroll's testimony. Here is what he showed you.
20 Ms. Carroll saying I never had sex again but I think it wasn't
21 because of him. Here is what he left out, let's add in the
22 rest of it.

23 And then, he also didn't show you the rest of the
24 context Ms. Carroll gave on page 625.

25 Do we have that, Mr. Lam, too?

N585car6

Rebuttal - Mr. Ferrara

1 *Here is the thing. I was killing my own luck. She*
2 *testified. I was getting in the way of my own luck. I made*
3 *sure I wasn't lucky. I just made sure I didn't meet a person*
4 *because I didn't allow myself to flirt or smile at a possible*
5 *romantic partner. That was the context.*

6 Another example --

7 We can take that down. Thank you, sir.

8 Another example of cherry-picking had to do with the
9 testimony of Dr. Lebowitz. Now, Mr. Tacopina spent a lot of
10 time on Dr. Lebowitz and he made this point about how, if
11 Ms. Carroll had lied to Dr. Lebowitz, then it sort of just goes
12 into the report. He used this phrase: Garbage in, garbage
13 out. Remember that? But, again, he cherry-picked this too
14 because, as my colleague Ms. Kaplan explained earlier,
15 Dr. Lebowitz testified that she believed Ms. Carroll. A
16 licensed, clinical psychologist with a speciality in trauma
17 who, for years, has treated members of the military who suffer
18 trauma, that clinical expert believes Ms. Carroll. And that's
19 at page 896, Ms. Kaplan showed it to you. The defense asked
20 her that but Mr. Tacopina didn't show you that part.

21 Mr. Tacopina also cherry-picked and misrepresented the
22 evidence when he was talking about this guy George Conway.
23 Mr. Tacopina called Mr. Conway a democratic party lawyer and he
24 showed you one question of Ms. Carroll's testimony so let me
25 show you the rest. It is page 315 of the transcript.

N585car6

Rebuttal - Mr. Ferrara

1 which was around 6:00 or 7:00 at night and it made sense it was
2 the night that the store stayed open late: Thursday. That's
3 it. No big deal. It is not lies, it is just common sense and
4 best efforts to remember.

5 Mr. Tacopina also argued that Ms. Carroll is lying to
6 sell her book and that the lawsuit is a money grab. Well,
7 that's totally wrong and look, first, again, my partner
8 Ms. Kaplan spoke to you for 90 minutes earlier and she never
9 asked you once to award Ms. Carroll some ridiculous amount of
10 money and I'm not going to do that either.

11 Second, Ms. Carroll told you that this lawsuit isn't
12 about the money. I asked her if she's hoping for a large
13 payout from this case and she answered "it's not about the
14 money, it's about getting my name back." That's at page 316 of
15 the transcript. If Ms. Carroll is hoping for a huge payday,
16 why would she tell you, the jury that will decide the issue,
17 that it isn't about the money? She wouldn't. What she told
18 you is the truth. This lawsuit is about far more than money to
19 her, it is about getting her life back.

20 And the book? I mean, Ms. Carroll told you the book
21 was a dud and didn't sell but remember the evidence about how
22 Ms. Carroll published the Trump chapter from the book? That
23 chapter about Trump and a few other chapters were published
24 online by New York magazine. Right? So, in other words,
25 Ms. Carroll gave away, for free, online, the chapter about

N585car6

Rebuttal - Mr. Ferrara

1 Trump. She wouldn't have done that if she was making up a
2 story to get people to buy her book. This is not a money grab.

3 The defense also argued that Ms. Carroll is lying
4 about whether Ms. Martin and Ms. Birnbach read the book excerpt
5 about Trump. And I guess his point there was that they're
6 lying about having read the book because they've secretly read
7 it and they got their stories straight to coordinate their
8 accounts. I apologize, I honestly did not completely follow
9 this one, but I -- but the book was published, period. The
10 excerpt was online. Ms. Carroll, Ms. Martin, and Ms. Birnbach
11 all told you they did an interview together for the New York
12 Times. No one is saying to you that they had not heard each
13 others' accounts before they testified here. No one is saying
14 that. They told you that. So, I don't understand the argument
15 about did they read the excerpt? Did they not? They told you
16 about sitting with one another for an interview.

17 This goes to what I was sort of saying earlier about
18 if they were going to lie, wouldn't they lie better than this?
19 I mean, it goes back to that idea but, similarly, if they
20 wanted to get their story straight, which I think is what
21 Mr. Tacopina is suggesting I think he is saying, they wanted to
22 get their story straight, but they also could have done that a
23 lot better because there are little inconsistencies throughout
24 their testimony that shows you they didn't coordinate with each
25 other, they're just doing their best to remember a conversation